CRIMINAL PROCEDURE CODE AMENDMENT BILL.

Mr. Thanu Pillai.—I have simply to say a word about this Bill. In the Criminal Procedure Code (Act V of 1898) recently passed by the Government of India, there are several alterations made which we may adopt with advantage. What these alterations are, have not been fully noted down and circulated. This will be done in a very short time. I would therefore move that the consideration of the Bill be deferred to another meeting.

President.—This Bill has to be pushed on, so that it may be passed soon and come into force on the 1st Makarom 1074, simultaneously with the Penal Code. It would be well to fix an early date for the consideration of the Bill by the Council, which would suit the convenience of the members.

It was resolved that an extraordinary meeting be convened for the purpose, on Thursday the 16th June, at 12 noon.

STAMP REGULATION AMENDMENT BILL.

Mr. Thanu Pillai.—I had intended to move to-day for the consideration and, if possible, final reading of this Bill. But for reasons which I shall presently explain, I have thought it necessary to take another course. Our Stamp Regulation (I of 1059) is an adaptation of the British Act, I of 1879. Subsequent to that Act, there have been several amendments in British India, which have not yet been adopted by us. In the Bill which I introduced, I embodied such amendments as I thought might be adopted with advantage. But since introducing my Bill, I find the Stamp law is undergoing thorough revision in British India. A Bill to amend and consolidate the Stamp law is now before the Viceroy's Council, and it has now reached an advanced stage. The Select Committee has already reported on the Bill, and from the report of the Committee and the speech of Sir James Westland before the Council in presenting the report, I find that we could, with advantage, take many valuable suggestions from that measure. There are two courses open to us—either to adopt the suggestions in the shape of amendments to the present Bill, or to re-draft the whole Stamp Regulation. The former course seems to me to be the less satisfactory of the two. In the first place, the amendments will be larger in number than the original Bill itself. Secondly, the existence of two Regulations in the same subject—the original Regulation and an amendment Regulation which contains modifications of many of the provisions of the former—will be a source of great practical inconvenience. The Stamp law is one which enters so largely into the business transactions of every day life, that too much pains cannot be taken to make its provisions clear and intelligible. As it is, its provisions are not clearly understood and, perhaps, not clearly understandable. I find also a serious defect in our present Regulation. The Schedule is not alphabetically arranged and in consequence, one has to wade through the whole Schedule to find out the duty on a particular class of instruments. I think it is very necessary to recast the Schedule. I beg, therefore, to move that I be permitted to withdraw the Bill now before the Council, and to introduce a fresh Bill to consolidate and amend the existing law.

Mr. Prince.—I second the proposal.

Permission was accordingly granted.

NEGOTIABLE INSTRUMENTS BILL.

Mr. Kuruvila.—In accordance with the permission granted on the 20th November last, I beg to introduce the "Negotiable Instruments Bill."

As regards the necessity for special legislation on the subject and as to the general lines on which the Regulation should be framed, I had referred at some length when I sought the permission of the Council for introducing the Bill. In addition to the facts then adduced, I believe, it would not be out of place here to mention that it is at the instance of the most influential exponents of mercantile opinion that I have been prompted to undertake the responsibility of recommending such positive intervention of the legislature in mercantile matters. I consider that

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the all-sufficient justification for special legislation in this direction is that the Bill simply proposes to give legislative sanction to what is a matter of common consent among merchants. The proposal is not intended to overrule the opinions or wishes of the mercantile community. On the contrary, the object with which I approach the Council is to solicit the help of the legislature, in giving legal validity and accessible form to what is now spontaneously adopted by the general body of respectable merchants.

Working on this ground, and seeing that 86 per cent of our trade is directly with British India, I think it improper to attempt to engage the attention of this Council with any elaborate examination of the origin or history of Negotiable Instruments, or a comparison of the codes in force in the several European and American States, and hold it a desirable virtue to discourage all suggestions for departing from the leading principles of the British Indian Act as now in force. The English Bills of Exchange Act and the British Indian Act are practically similar in principle, though each has its special basis of arrangement; but, for the reasons above given, I have adhered to the British Indian Act, even in the arrangement of the provisions. In short, the substance and the form of the Bill closely follow the British Indian Act with the exception of a very few elucidatory or precautionary modifications.

The principles of the British Indian Act will, I am confident, command public confidence without any advocacy from me. I will therefore conclude with a few observations on the more important of the modifications that I have recommended in the Bill.

In the first section of the British Indian Act, there is a reference to the Indian Paper Currency Act. Though we have no such Act, it is, I think, desirable to retain the Government's power to establish a monopoly for the issue of currency notes whenever deemed necessary. A special section reproducing the positive provision of the Currency Act has been accordingly introduced after the definitions, as Section 25 of the Bill under Chapter III, where it will be contiguous to the section dealing with the capacity to make promissory notes &c. No penalty for contravening this section has been specially provided, as, at present, the non-recognition of the prohibited instruments is considered a sufficient deterrent.

In Sections 4 and 5 of the British Indian Act, the dating of a promissory note or bill of exchange is not made a necessary condition. Most of the foreign codes require date to be given as a matter of necessity. The omission of date in a bill of exchange would cause difficulty, especially where a bill is expressed to be payable after date, and also in cases where an acceptance is undated. The Stamp Act, in some of its provisions for the valuation for duty, rules that the duty shall be calculated on the value at the current rate of exchange on the day of the date of the instrument. In consideration of the conditions under which valuable documents in this country are usually written, and the convenience and safety secured by insisting on the dating of instruments, the necessary alteration has been made in the definitions of "promissory note" and "bills of exchange," to serve this end.

In Section 15 of the British Indian Act, a slight modification in wording is made with reference to an allonge or slip of paper added to a bill when there is no room on the bill for all the endorsements. It is hoped that it will prevent fraud, if we insist that the slip will be so annexed that the first endorsement on the slip will have its beginning on the bill and will end on the slip. A slight modification is made in section 22 of the British Indian Act to make it consistent with section 19 of the Act, and to recognize the practice of writing instruments "without grace", should the maker choose so to do. Section 19 provides that in cases where no time for payment is specified, the instruments must be treated as payable on demand. The days of grace, on the other hand, do not confer an unmixed grace, as interest has to be paid for those days also. The Act allows days of grace to such instruments only as are not, either expressly or in legal effect, payable on demand. It is clear that the Act does not contemplate the nullification of section 19, because it rules that the days of grace must be calculated from the day on which the instrument is expressed to be payable. The confusion in the wording of the Act is due to the fact that the expression "not expressed to be payable on demand &c.," does not

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positively exclude the cases provided for in section 19. This exclusion is secured by the modification suggested. The wods "without grace" have been added, as mentioned above, to give effect to such express stipulation, whenever bills are so drawn.

In section 36, the word "acceptor" has been added for the sake of clearness, as in the case of bills of exchange, the drawer's liability is not prior to that of the acceptor, although the drawer is in point of time a prior party. (*vide* section 30).

In section 37, the words "bill of exchange until acceptance" have been changed into "an unaccepted bill of exchange." This modification is more comprehensive and is desirable as, under section 30, the liability of the drawer does not arise until dishonor.

In section 39, the reference to the Contract Act has been modified to suit the circumstances of our undefined law.

In section 55, the heading has been changed to suit the wording of the section, as it does not unqualifiedly convert the payability of the instrument to bearer.

In section 56, three Illustrations have been added to make the meaning clear.

The heading and the body of section 66 have been modified, so as to include the case of bills provided for, in clause 2 of section 5 of the British Indian Act, as payable on the lapse of a certain period after the occurrence of a specified event.

In section 75, the heading has been altered to suit the body of the section.

In section 80, an addition has been made to the Explanation, for clearness' sake, to the effect, "or if notice is unnecessary under section 98, from the time of dishonor."

In section 105, the words "or sight" have been added, to include sections 21 and 62 in the provision for the determination of "reasonable time."

In section 117, the reference to the Civil Procedure Code has been omitted. Our Code does not contain any provision for summary procedure on negotiable instruments. The provision in the British Indian Code applies to certain specified Courts only. The special procedure is further of doubtful advantage. I have not, therefore, thought it necessary to make any corresponding provision.

It will thus be seen that the modifications do not affect the principle of the British Indian Code. But, as the Bill is one affecting the commercial community, I beg to move that, before the principle of the Bill is discussed, the Bill be published for general information, and that arrangements be made to invite remarks on it from the High Court, the Commercial Agent, the Alleppey Chamber of Commerce and the Agent to the Bank of Madras at Alleppey.

I beg to move that the Bill with the Statement of Objects and Reasons be published, and that the principle of the Bill be brought up for consideration at the next ordinary meeting of the Council.

Seconded by Mr. Maltby.

The motion was put and agreed to.

The Council adjourned at 4-45 P. M.

K. KRISHNASWAMY RAO,
President.

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